Remarks

The Applicant respectfully requests reconsideration and reexamination of the above-identified patent application, without amendment. Claims 1-8 and 10-20 are pending in this application. Of the pending claims, claims 1 and 11-12 are independent claims.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1-3, 5-8, 10-15, 17-19, and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,850,442 issued to Muftic ("Muftic") in view of page 1 of PR Newswire (*General Instrument's Digital Interactive Cable TV Set-Top Terminals To Become The Latest New Acceptance Device for Smart Cards*) ("PR Newswire") further in view of pages 51-53 of Booker (Booker, Ellis. *New System A Welcome Guest at Hyatt. Computerworld.*) ("Booker"). The Applicant respectfully traverses.

1.   The Independent Claims

Independent claims 1 and 11-12 generally include:

(i) the merchant service provider ("MSP") web server has commands for processing transaction information associated with the transaction card to obtain authorization from the MSP for the transaction;

(ii) the transaction device (terminal) does not use any MSP proprietary software for the transaction information to be processed to obtain authorization from the MSP for the transaction; and

(iii) the transaction device (terminal) accesses the web server without accessing any MSP provider proprietary network.

2.   Muftic, PR Newswire, and Booker

The Examiner posited Muftic discloses a method of performing a card transaction using a transaction card, the method comprising: accessing a web server of a MSP provider via an Internet service provider using either a transaction device or POS terminal

during a transaction involving a transaction card, wherein the web server includes commands ("programming logic") for processing transaction information ("business information") associated with the card to obtain authorization ("authorization") from the MSP ("server") for the transaction (citing col. 7, lines 14-64; col. 10, lines 27-48; col. 12, line 5 through col. 14, line 62). The Examiner further posited wherein accessing a web server comprises accessing a web page ("home page") of the web server, and wherein the web page includes commands for processing the transaction information ("order information") (citing col. 13, lines 28-30).

The Examiner indicated Muftic does not teach the underlined limitations:

wherein the transaction device does not utilize any MSP proprietary software for the transaction information to be processed to obtain authorization from the MSP for the transaction; and

wherein the transaction device accesses the web server without accessing any MSP proprietary network.

The Examiner posited use of non-proprietary software to complete card-based transactions is old and well known as evidenced by PR Newswire. The Examiner posited PR Newswire discloses the development of the Visa Open Platform, "a flexible non-proprietary platform that enables fast and easy development of globally interoperable multiple application smart card systems." The Examiner posited the Visa Open Platform has been accepted to allow transaction devices (GSM mobile phones) to complete transactions (load applications onto smart cards). The Examiner posited it would have been obvious to modify Muftic by incorporating non-proprietary software onto the transaction device to complete the transaction, as disclosed by PR Newswire, allowing "fast and easy development" of said card-based system, furthering Muftic's stated motivation of developing a system for electronic transactions to occur over "an open network" (citing col. 1, lines 19-22).

The Examiner posited use of a non-proprietary network is old and well known as evidenced by Booker. The Examiner posited Booker discusses the switch from "a proprietary to a nonproprietary wide-area network" that resulted in financial savings "in

leasing fees and maintenance" and allowed them "to respond [more] quickly to changes in the marketplace." The Examiner posited it would have been obvious to have modified Muftic and PR Newswire to incorporate a non-proprietary network and non-proprietary technology, in general, as disclosed by Booker, to allow the system to capture the benefits of non-proprietary technology.

3. Comparison of the Independent Claims to the Cited References

With respect to (i) (the MSP web server has commands for processing transaction information associated with the transaction card to obtain authorization from the MSP for the transaction), the Appeal Board indicated (in the Appeal Board Decision dated February 14, 2006 in which the rejection of previously set forth claims 1-21 under 35 U.S.C. § 103(a) in view of Muftic was reversed) that col. 9, lines 15-55 of Muftic failed to show "a web server including commands for processing a transaction" (Board Decision page 3). Col. 9, lines 15-55 of Muftic discloses a network 100 having clients 120 and electronic commerce servers 110; the servers receive and respond to connections and/or messages from the clients; and the users participating in electronic commerce are logically related in a certification matrix using security servers and, as such, the standard Internet environment is augmented with security features in order to facilitate electronic commercial transactions which are free of the problems of the prior art.

In the final Office Action, the Examiner posited Muftic discloses a web server/page having commands ("programming logic") for processing transaction information ("business information"; "order information") associated with the card to obtain authorization ("authorization") from the MSP ("server") for the transaction (citing col. 7, lines 16-64; col. 10, lines 27-48; col. 12, line 5 through col. 14, line 62 including col. 13, lines 28-30 of Muftic). Col. 7, lines 16-64 of Muftic is generally directed to the same disclosure of col. 9, lines 15-55 of Muftic. Particularly, security servers link all registered users in a public key infrastructure and, as such, authenticating parties involves the use of public keys. Further, authentication of parties as to their identity on a given web server is not the same as a web server processing transaction information associated with the transaction card to obtain

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authorization from a merchant service provider for the transaction. Col. 10, lines 27-48 of Muftic generally describes smart token software is installed on the user's terminal. Col. 12, line 5 through col. 14, line 62 also generally describes smart token software is installed on the user's system. Col. 13, lines 28-30 of Muftic generally describes the user's system logging onto a desired home page server. As such, the portions of Muftic cited by the Examiner do not teach or suggest a web server including commands for processing a transaction as claimed.

With respect to (ii) (the transaction device (terminal) does not use any MSP proprietary software for the transaction information to be processed to obtain authorization from the MSP for the transaction), the Examiner posited PR Newswire discloses this limitation. PR Newswire generally mentions a flexible non-proprietary open platform which enables the fast and easy development of globally interoperable multiple application smart card systems. PR Newswire indicates an end goal of the open platform is to let users use their smart cards over digital TV networks. As such, the open platform enables smart card systems to communicate with one another. The open platform is described as being "non-proprietary" and, as such, "software developers can create programs that run on a wide variety of chips and operating systems, enabling banks and financial institutions to develop their own smart cards on which they can run numerous programs, providing their customers with a broad array of value-added functions." Thus, the relevance of PR Newswire is disclosure of a non-proprietary open platform for use in smart card systems and that the open platform can somehow be tailored or improved by software developers on behalf of banks and financial institutions. As such, PR Newswire does not teach or suggest that a transaction device (terminal) does not use any merchant service provider proprietary software for transaction information to be processed to obtain authorization from a merchant service provider for a transaction.

In view of the foregoing remarks, independent claims 1 and 11-13 are patentable under 35 U.S.C. § 103(a) over Muftic in view of PR Newswire in further view of Booker as such combination does not teach or suggest, at least, the claimed features (i) and (ii). Claims 2-3, 5-8, 10, 13-15, and 17-19 depend from one of independent claims 1 and 12 and include

the limitations of their respective base claim. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection to claims 1-3, 5-8, 10-15, and 17-19, under 35 U.S.C. § 103(a).

The Examiner rejected claims 4, 16, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Muftic, PR Newswire and Booker, as applied to claims 1 and 15, further in view of U.S. Patent No. 5,987,498 issued to Athing. Claims 4, 16, and 20 depend from one of independent claims 1 and 12 and include the limitations of their respective base claim. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection to claims 4, 16, and 20 under 35 U.S.C. § 103(a).

CONCLUSION

In summary, claims 1-8 and 10-20 meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested.

If a telephone or video conference would expedite allowance or resolve any further questions, such a conference is invited at the convenience of the Examiner.

Respectfully submitted,

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